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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,213	11/21/2001	Jeff L. Mercer	N-6643	3542

7590 11/07/2003

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EXAMINER

BOMBERG, KENNETH

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 11/07/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,213

Applicant(s)

MERCER ET AL.

Examiner

Kenneth Bomberg

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 10-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 14 is/are rejected.
- 7) ☒ Claim(s) 4-9 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the valve of Group I in Paper No. 6 is acknowledged.
2. Claims 10-12 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim¹. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claim Objections

3. Claims 2, 8 and 15 are objected to because of the following informalities:

In Reference to Claim 2

In line 4, "liquid input passage" should be --liquid passage-- to correspond with claim 1, line 3.

In Reference to Claim 8

In line 3, "air chamber" should make reference to --liquid chamber--.

In Reference to Claim 15

From the context of this claim, it is apparent that it should depend from claim 14, rather than 13.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Czarnecki (2,041,906).

In figures 1-3, Czarnecki teaches of a device including a: valve body (10) with a lower chamber opening (14), liquid passage (12), valve assembly (Fig. 3, 15), seat (17), stem (26), and filter (24).

6. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Lewis et al. (5,873,528).

In figure 1, Lewis et al. teaches of a device including a: valve body (16) with liquid chamber (28) having upper and lower chamber openings (top and bottom of 28), liquid passage (26), nozzle adaptor (72), valve seat (102), valve stem (22), seal assembly (58, 68), and housing (68).

7. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Trumbull et al. (3,160,331).

¹ Although a species election was required as part of the restriction requirement, the species are related to nonelected Group II, and therefor is moot in view of the election of Group I.

In figures 1-2, Trumbull et al. teaches of a device including a: valve body (10) with liquid chamber (12) having upper and lower chamber openings (top and bottom of 12), liquid passage (20), nozzle adaptor (28), valve seat (36), valve stem (62), seal assembly (46, 58, 60), and housing (46).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Czarnecki (2,041,906) in view of Palmer (3,053,419).

Czarnecki shows a dispensing device substantially according to claim 3, but does not show the filter (245) supported by an internal support according to the claim. Palmer teaches to provide an internal filter support (40, 75) in order to secure a filter (see column 3, lines 20-26).

It would have been obvious to one having ordinary skill in the art to have included the filter support of Palmer in the dispensing device of Czarnecki in order to secure the filter as taught by Palmer.

Art Unit: 3754

Allowable Subject Matter

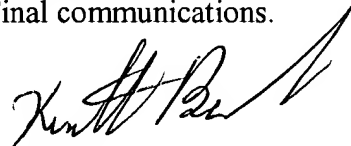
10. Claims 4-9 and 15 (provisionally)² are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Price, Boone, and Miller are included because of their valve and seal arrangements. The remaining prior art listed on the attached FORM PTO-892 have been included because of the filter teachings.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Bomberg whose telephone number is (703) 308-2179. The examiner can normally be reached on Monday-Thursday from 9:30 AM - 7:00 PM. The examiner can also be reached on alternate Fridays.

The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.


KENNETH BOMBERG
PRIMARY EXAMINER
ART UNIT 3754

K.B.
November 2, 2003

² The provisional indication of the allowability of claim 15 is based upon it being made dependent from claim 14.